

FORM TO BE USED BY PRISONERS IN FILING A COMPLAINT  
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
DIVISION

US DISTRICT COURT  
WESTERN DIST ARKANSAS  
FILED

JAN 23 2020

DOUGLAS F. YOUNG, Clerk  
By Deputy Clerk

Preston Ray Curnett  
(Enter above the full name of the plaintiff  
in this action.)

Prisoner ID No. 165671  
(Do Not Put Your Social Security Number)

V.

CASE NO. 6:20-cv-06003-RTD-MEF

Shaquille Brown  
Seargant Delaney

Jury Trial: Yes ☒ No ☐  
(Check One)

Arkansas Department of Correction  
(Enter above the full name of the defendant,  
or defendants, in this action.)

I. Previous Lawsuits

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☒ No ☐

B. If your answer to A is yes, describe each lawsuit in the space below including the exact plaintiff name or alias used. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this lawsuit

Plaintiffs: Preston Ray Curnett

Defendants: Quachita Correctional Facility

2. Court (if federal court, name the district; if state, name the county):

Pulaski County Civil Claims Court

3. Docket number: No. 19-0674-CC

4. Name of judge to whom case was assigned: NA

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) Dismissed

6. Approximate date of filing lawsuit: November 2018

7. Approximate date of disposition: March-April 2019

(Updated 7/2019)



2. Defendant #2

Full Name: Seargant Delaney

Position: Seargant

Place of Employment: Quachita River Correctional Unit

Address: \_\_\_\_\_  
\_\_\_\_\_

3. Defendant #3

Full Name: Arkansas Department of Correction

Position: \_\_\_\_\_

Place of Employment: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

4. Defendant #4

Full Name: \_\_\_\_\_

Position: \_\_\_\_\_

Place of Employment: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

If you need more space for additional Defendants, list the additional Defendants on another piece of paper, using the same outline.

V. At the time of the alleged incident(s), were you:  
(check the appropriate blank)

☒ in jail and still awaiting trial on pending criminal charges  
serving a sentence as a result of a judgment of conviction  
☐ in jail for other reasons (e.g., alleged probation violation, etc.)

Explain: I am currently in Prison serving a 6 year sentence  
on a Battery II charge, that was ran consecutive to a  
3 year sentence.

Please provide the date of your conviction or probation or parole revocation:

July 17th, 2016.

## VI. Statement of Claim

State every ground on which you claim that one or more of the Defendants violated your federal constitutional rights. For example, if you have an excessive force claim and a denial of medical care claim, you must fill out a separate section for each different claim. This section should be limited to the facts of your claim.

With respect to each claim, briefly describe the actions taken by each Defendant who you believe was involved in violating your rights. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. (Use as much space as you need. Attach extra sheets if necessary.)

Claim Number # 1:

Type of Claim (for example, excessive force, denial of medical care, etc.):

See attached

Date of the Occurrence: \_\_\_\_\_

Name of Each Defendant involved: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe the acts or omissions of the Defendant(s) that form the basis for Claim #1 and any harm caused by it.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With regard to Claim #1, are you suing Defendant(s) in his or her: (check the appropriate blank)

☐ official capacity only (An official capacity claim is the same as suing the governmental entity this Defendant works for and requires proof that a custom or policy of the governmental entity caused the alleged violation).

☐ personal capacity only (A personal capacity claim is one that seeks to hold an individual liable for his own actions taken in the course of his duties).

☒ both official and personal capacity

If you are asserting an official capacity claim, please describe the custom or policy that you believe caused the violation of your constitutional rights.

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**Claim Number # 2:**

Type of Claim (for example, excessive force, denial of medical care, etc.):

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Date of the Occurrence: \_\_\_\_\_

Name of Each Defendant involved: \_\_\_\_\_

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Describe the acts or omissions of the Defendant(s) that form the basis for Claim #2 and any harm caused by it.

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With regard to Claim #2, are you suing Defendant(s) in his or her: (check the appropriate blank)

- ☐ official capacity only (An official capacity claim is the same as suing the governmental entity this Defendant works for and requires proof that a custom or policy of the governmental entity caused the alleged violation).
- ☐ personal capacity only (A personal capacity claim is one that seeks to hold an individual liable for his own actions taken in the course of his duties).
- ☒ both official and personal capacity

If you are asserting an official capacity claim, please describe the custom or policy that you believe caused the violation of your constitutional rights.

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Claim Number # 3:

Type of Claim (for example, excessive force, denial of medical care, etc.):

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Date of the Occurrence: \_\_\_\_\_

Name of Each Defendant involved: \_\_\_\_\_

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Describe the acts or omissions of Defendant(s) that form the basis for Claim #3 and any harm caused by it.

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With respect to Claim #3, are you suing Defendant(s) in his or her: (check the appropriate blank)

- \_\_\_\_\_ official capacity only (An official capacity claim is the same as suing the governmental entity this Defendant works for and requires proof that a custom or policy of the governmental entity caused the alleged violation).
- \_\_\_\_\_ personal capacity only (A personal capacity claim is one that seeks to hold an individual liable for his own actions taken in the course of his duties).
- \_\_\_\_\_ both official and personal capacity

If you are asserting an official capacity claim, please describe the custom or policy that you believe caused the violation of your constitutional rights.

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If you need more space for more claims, list the additional claims on another piece of paper, using the same outline.

VII. Relief

If you are seeking to recover damages from the named Defendants, check the appropriate blank or blanks below for the type or types of damages that you are seeking:

- ☒ Compensatory damages (designed to compensate persons for injuries, such as physical pain and suffering, etc., that are caused by the deprivation of constitutional rights)
- ☒ Punitive damages (designed to punish a defendant for engaging in misconduct and deter a defendant and others from engaging in such misconduct in the future)

State briefly below any other relief you are seeking in this action. Make no legal arguments. Cite no cases or statutes. If you are requesting money damages, include the amounts of any actual damages and/or punitive damages you are claiming. Explain why you believe you are entitled to recover those damages.

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See attached

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I declare under penalty of perjury (18 U.S.C. § 1621) that the foregoing is true and correct.

Executed this 20th day of January, 2020.

Preston Burnett  
Printed Name of Plaintiff

[Signature]  
Signature of Plaintiff



Statement of Claim (page 1 of 2)

1. Defendants herein are sued in individual and official capacity for violation of the Rights of Plaintiff under 5<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup> Amendment to the United States Constitution.
2. Whereas on January 10<sup>th</sup>, 2018 Plaintiff was physically assaulted by Sgt. Shaquille Brown at the Ouachita River Correctional Unit (ORCU) of the Arkansas Dept. of correction.
3. The Plaintiff was also racially discriminated against after said Assault by Sgt. Shaquille Brown.
4. Whereas, on January 25<sup>th</sup>, 2018 Plaintiff filed a Grievance at the ORCU Pursuant Policy about the Altercation with Sgt. Brown, to Sgt. Delaney (Problem Solver at ORCU). (copies were given to Detective from State Police who investigated the Assault).
5. On January 29<sup>th</sup>, 2018 (Before Step one of the above mentioned Grievance was responded to) Plaintiff was transferred to the Varner Supermax of Arkansas Dept. of correction.
6. Never receiving a response (for 30 days), to grievance, the Plaintiff filed another Grievance dated 2-21-18 about Sgt. Delaney's failure to ensure the Step one was mailed to Plaintiff.
7. This Grievance was Signed by Sgt. King # 90823 and Step one response was that "no grievance had been entered Per. Eomis."
8. Plaintiff believed this was a deliberate attempt by Sgt. Delaney to Circumvent the Exhaustion of Administrated Remedies for the Assault by his coworker Sgt. Brown.
9. VSM Grievance officer responded to Step two by saying "This is not VSM's Problem."

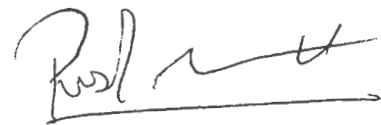


10. Finally, on 8-31-18 Plaintiff again attempted to grieve the incident and was once again impeded by assertion that the grievance was "untimely" by issuance officer F. Gordon.

11. Whereby, The Plaintiff had no other remedies available at an administrative level and pursues claims herein after completely Exhausting all available administrative remedies.

12. Plaintiff prays that meritorious claims herein be redressed accordingly.

I swear under Penalty of Perjury the foregoing is true and correct to the best of my knowledge, understanding and belief this 20 day of January 2020.

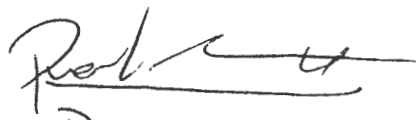
  
Preston Burnett

(Relief)

Plaintiff herein Requests the following Relief be granted in Address of these Claims.

1. \$ 500,000<sup>00</sup> (Five hundred thousand dollars) Compensatory Damages for injury and possible future medical Expenses / Pain and Suffering.
2. \$ 250,000<sup>00</sup> (Two hundred fifty thousand dollars) Punitive Damages to ensure other prisoners are not assaulted and/or Impeded from Exhausting administrative remedies and Pursuing Civil Rights.
3. Declaration that the Assault by Sgt. Brown and denied due Process by Sgt. Delaney and ADC administration in failing to Process Grievance were in violation of the 5<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup> Amendment of United States constitution.
4. Injunctive Relief in the form of transfer to a work Release Facility unit until my release or Transfer from the Arkansas Department of Correction to Arkansas Community Correction Supervision (Parole).

I Swear under Penalty of Perjury the foregoing is true and correct to the best of my knowledge, understanding and belief this ~~10th~~<sup>20th</sup> day of ~~January~~ 2020.

  
Preston Curnett

**UNIT LEVEL GRIEVANCE FORM (Attachment I)**Unit/Center Vanner SupermaxName Preston CurnettADC# 165671 Brks # cell block 5 cell 105 Job Assignment 18 month Program2-21-18 (Date) STEP ONE: Informal Resolution

FOR OFFICE USE ONLY

GRV. # \_\_\_\_\_

Date Received: \_\_\_\_\_

GRV. Code #: \_\_\_\_\_

2-27-18 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)If the issue was not resolved during Step One, state why: The grievance officer stated, "it was not Vanner's problem. I have a copy of original grievance."

\_\_\_\_\_, (Date) EMERGENCY GRIEVANCE (An emergency situation is one in which you may be subject to a substantial risk of physical harm: emergency grievances are not for ordinary problems that are not of serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. In an Emergency, state why: \_\_\_\_\_

Is this Grievance concerning Medical or Mental Health Services? \_\_\_\_\_ If yes, circle one: medical or mentalBRIEFLY state your one complaint/concern and be specific as to the complaint, date, place, name of personnel involved and how you were affected. (Please Print): On 1-25-18, I, Preston Curnett #165671, filed a grievance at the malvern unit, OHW, on an allegation that happened on 1-10-18. On 1-29-18, I was transferred to Vanner Supermax. I have been waiting to get my response from Sgt. Delaney, of the OHW personnel, in the mail. It is detrimental to my lawsuit that I receive it and put in the step two process. I have not been able to pursue my grievance because I have not received the step one answer. This is in violation to my rights and will be noted on my lawsuit against ADX.Inmate Signature RickDate 2-21-18

If you are harmed, threatened because of your use of the grievance process, report it immediately to the Warden or designee.

**THIS SECTION TO BE FILLED OUT BY STAFF ONLY**This form was received on 02/21/18 (date), and determined to be Step One and/or an Emergency Grievance No (Yes or No). This form was forwarded to medical or mental health? No (Yes or No). If yes, name of the person in that department receiving this form: \_\_\_\_\_ Date 02/24/18PRINT STAFF NAME (PROBLEM SOLVER) Sgt. KingID Number #90823Staff Signature Sgt. KingDate Received 02/24/18Describe action taken to resolve complaint, including dates: According to EOMIS a grievance has not been entered. G.T. 2/27/18

Staff Signature &amp; Date Returned \_\_\_\_\_

Inmate Signature & Date Received May 1 report

This form was received on \_\_\_\_\_ (date), pursuant to Step Two. Is it an Emergency? \_\_\_\_\_ (Yes or No).

Staff Who Received Step Two Grievance: \_\_\_\_\_ Date: \_\_\_\_\_

Action Taken: \_\_\_\_\_ (Forwarded to Grievance Officer/Warden/Other) Date: \_\_\_\_\_

If forwarded, provide name of person receiving this form: \_\_\_\_\_ Date: \_\_\_\_\_

DISTRIBUTION: YELLOW &amp; PINK - Inmate Receipts; BLUE - Grievance Officer; ORIGINAL - Given back to Inmate after Completion of Step One and Step Two. • 6 •

CR 2/202



SEP 12 2018

4/CC3 Elso (VSM)

Unit/Center Varney 5-117-9144

Name Person A

ADC# 11651671 Brks # 08 505 Job Assignment DTX YOM1

GRV. #

Date Received: 9-12-18

GRV. Code # 803

(Date) **STEP ONE: Informal Resolution**

(Date) ~~STEP TWO: Formal Grievance~~ (All complaints/concerns should first be handled informally.)

If the issue was not resolved during Step One, state why: The 2nd attempt  
the department & declassification

(Date) EMERGENCY GRIEVANCE (An emergency situation is one in which you may be subject to a substantial risk of physical harm: emergency grievances are not for ordinary problems that are not of serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. In an Emergency, state why: \_\_\_\_\_

Is this Grievance concerning Medical or Mental Health Services? \_\_\_\_\_ If yes, circle one: medical or mental

**BRIEFLY** state your one complaint/concern and be specific as to the complaint, date, place, name of personnel involved and how **you** were affected. (Please Print): THIS SCHOOL IS LONG DISTANCE

by ~~Section~~ Discrimination and Special Issues Policy  
Section Number 532, Subsection D which states:  
All Administrators and Supervisors shall be open to  
complaints from and inquire concerning discrimination  
and shall be active in investigating any such complaint  
and in taking remedial action.  
On January 10, 2018 I was placed into by St. Brown  
of the ~~San~~ ~~San~~ River Correctional Facility. I feel  
and believe that this act done by government officials  
was a bias act and has not to do with being placed  
discriminated against, do towards my race, creed, and  
color, causing such affect by government employees.

## Inmate Signature

August 31, 2018  
Date

*If you are harmed, threatened because of your use of the grievance process, report it immediately to the Warden or designee.*

**THIS SECTION TO BE FILLED OUT BY STAFF ONLY**

This form was received on \_\_\_\_\_ (date), and determined to be **Step One** and/or an Emergency Grievance \_\_\_\_\_ (Yes or No). This form was forwarded to medical or mental health? \_\_\_\_\_ (Yes or No). If yes, name of the person in that department receiving this form: \_\_\_\_\_ Date \_\_\_\_\_

PRINT STAFF NAME (PROBLEM SOLVER)

ID Number

Staff Signature

Date Received \_\_\_\_\_

**Describe action taken to resolve complaint, including dates:**

Staff Signature & Date Returned

Inmate Signature &amp; Date Received

This form was received on 09.11.18 (date), pursuant to **Step Two**. Is it an Emergency?    (Yes or No).

Staff Who Received Step Two Grievance: D. N. N. Date: 10.11.18

Action Taken: \_\_\_\_\_ (Forwarded to Grievance Officer/Warden/Other) Date: \_\_\_\_\_

If forwarded, provide name of person receiving this form: \_\_\_\_\_ Date: \_\_\_\_\_

**DISTRIBUTION: YELLOW & PINK** - Inmate Receipts; **BLUE** - Grievance Officer; **ORIGINAL** - Given back to Inmate after Completion of Step One and Step Two.

Preston Burnett #1680671

P.O. Box 600

Grady, AR 71644



Legal Mail

ISSUE

1-20-20  
Sgt. [illegible]